

THE WATCHDOG

A Periodic Newsletter from
The Office of the United States Trustee - Region 16

September 19, 2001
Issue No. 7

While the number of debtors

entering the bankruptcy system declined this past year, the number of people seeking to abuse the system appeared to stay steady. The number of substantial abuse motions won by our office showed that many debtors are still not choosing Chapter 13 when they should. Section 110 enforcement continues to be a critical tool in our effort to prevent exploitation of the enormous pro per population in this district. Lastly, our commitment from the district's law enforcement agencies has allowed us to continue obtaining criminal sanctions for some of the most egregious abuses. Regardless of whether Congress eventually provides additional tools for fighting fraud and abuse, we will continue to make the system work for those who deserve relief and to crack down on those who abuse the system.

Maureen A. Tighe

United States Trustee

Lila Dial pled guilty on June 12, 2001 to one count of false statement. She filed a bankruptcy using another person's name and social security number in order to delay the foreclosure of her home and to obtain a discharge of her debts. On September 10, 2001, Judge Nora Manella sentenced Dial to probation for three years and community service of 300 hours. Sandra Klein and Jim Alsop were the team on this case.

Alma Leticia Huerta, 32, was sentenced on June 20, 2001 for use of a false social security number in bankruptcy documents. She received one year of probation and 50 hours of community service from Judge A. Howard Matz. The U.S. Attorney's staff in this matter were Jon Cederberg and Sandy Klein and the FBI Special Agent investigating was Douglas Haigh.

On May 14, 2001, Judge A. Howard Matz sentenced **Joel Nater**, 45, to imprisonment of 72 months, probation of 3 years, and \$27,400 in restitution. Nater, who at one point was a fugitive after escaping an ankle bracelet, had filed a couple of bankruptcies under assumed names and social security numbers. AUSA Brian Hershman handled this sentencing.

Jorge Oswaldo Obregon, Jr., 36, received 12-months probation and 100-hours community service for using a false social security number in a bankruptcy. Judge Carlos R. Moreno presided. Robert Borthwick and Sandy Klein were the team from the U.S. Attorney's Office and Carl Winner served as FBI Special Agent.

On June 4, 2001, Judge Robert J. Timlin sentenced both **Linda and Miguel Ramirez** to three years of probation and three years of home detention. The couple defrauded a friend who had

SENTENCINGS



The Los Angeles County District Attorney's Office brought an action against **Robert Diaz** for grand theft. Using as a front a golf cart company, Diaz bilked investors out of \$577,300 and filed bankruptcy to avoid repayment. On May 24, 2001, Diaz received a sentence of 5 years 8 months imprisonment and was ordered to pay full restitution for the money stolen. Deputy District Attorney Andrew Bassis handled this case.

obtained a mortgage loan on their behalf. The Ramirez's failed to make the mortgage payments and subsequently filed bankruptcy in their friend's name. SAUSA Sandy Klein and FBI Special Agent Mark Songer worked this case.

CONVICTIONS

Cathy and Martin Scanlan vacated property in Mission Viejo during September 1995 because of foreclosure proceedings. During October 1995, **Terry Lee Carr, a.k.a. Terry Collier**, moved into the property without the consent of the legal owners. In an Unlawful Detainer Proceeding, Carr forged the signature of Martin Scanlan without his knowledge nor consent. After this move proved unsuccessful, Carr again forged a signature on a bankruptcy petition. Carr, knowingly and fraudulently filed a bankruptcy using Cathy Scanlon's identity in order to delay the stay of eviction proceedings. On April 26, 2001, Carr pled guilty. AUSA Linda Aouate and FBI Special Agent Tom Reitz oversaw this case.

In our August 15, 2000 issue of "The Watchdog," we reported a civil action against **Rosemarie Endara and A-Action Paralegals, a.k.a. Acciones Legales**, for filing a number of bankruptcy petitions purportedly prepared and signed by an attorney, at a high cost to the clients. On March 9, 2001, Judge Ellen Carroll enjoined Endara in the civil matter in a permanent nationwide injunction and ordered her to pay \$12,000 in sanctions which were distributed to the victims. In the criminal case, Endara pled guilty on August 20, 2001 to bankruptcy fraud charges. Endara told her clients that they would be represented by an attorney and then forged an attorney's signature on at least 18 bankruptcy petitions she prepared. No attorney ever represented her clients in these bankruptcies. Sandy Klein with the USAO handled the criminal case and Peter Norell, FBI Special Agent, did the investigation.

On May 18, 2001, a jury returned a guilty verdict on all 19 counts of bankruptcy and wire fraud in the **Gloria R. Sylianteng III** case. In a massive

Ponzi scheme, Sylianteng defrauded approximately 130 victims of over 6.5 million dollars through a front company, **GHL Productions**, which she claimed bought and sold art. Nancy Zamora, chapter 7 panel trustee, was a witness in this case. AUSAs Eilyn Marcus Lindsay handled the indictment, Brian Hoffstadt and Dan Rubenstein did the trial work, and FBI Special Agents Susan Dreiling and Bill Reiser performed the investigation.

INDICTMENTS

Stephen Jeffrey Regen was indicted on July 20, 2001. Two of the charges are bankruptcy fraud. Regen used a scheme to defraud in order to delay foreclosure proceedings against his property by filing multiple bankruptcies and converting to a different chapter within these bankruptcies. The other charges are forgery of a judge's signature and impersonation of a federal officer or employee. Regen forged two documents, an order vacating the dismissal of one of the bankruptcies and an emergency order stopping the closure of another bankruptcy, both meant to make the automatic stay appear to be still in place. Regen faxed these documents to his creditors. AUSA Ranee Katzenstein and FBI Special Agent Norma Ballard handled this matter.

An information was filed on August 21, 2001, in a case against **Steven Jackson, a.k.a. Stephan Randall Jackson**, for making false statements in his bankruptcy schedules. Jackson failed to list a 1995 Chevrolet Suburban. Jackson is scheduled to appear for arraignment on September 24, 2001. SAUSA Sandra Klein and FBI Special Agent Randall Devine worked this case.

ATTORNEY DISCIPLINE

⇒ The California State Bar suspended **John G. Monkman, Jr.**, of Pasadena, California, from the practice of law for two months, placed him on

probation for another year, and ordered him to pay restitution. Monkman practiced law in another jurisdiction without permission, failed to obey a court order, and engaged in acts of moral turpitude. The U.S. Bankruptcy Court had previously sanctioned Monkman for filing a false document under penalty of perjury and failing to pay the resulting sanctions. Monkman signed, under penalty of perjury, a bankruptcy petition claiming he was both general counsel and vice president of the debtor. These statements were false. In addition, Monkman indicated he had not filed a previous petition, after the U.S. Bankruptcy Court had specifically restricted him from filing a bankruptcy petition without the Court's approval. The Court barred Monkman from practicing before the Court in the Central District of California.

On May 17, 2001, a panel of U.S. Bankruptcy Court judges, including Samuel L. Bufford, Thomas B. Donovan, and Sheri Bluebond, disbarred attorney **David Weston Napier** from practicing law for six months in federal bankruptcy courts. Napier may not seek reinstatement until he takes a minimum of three hours of continuing legal education in the area of representing consumer debtors. The OUST had filed a motion for Napier to reduce his fees after he caused a married couple to file individual bankruptcy cases rather than a joint bankruptcy and essentially charged them double. Napier did not obey the order for disgorgement nor the subsequent order for sanctions.

On July 12, 2001, Judge Thomas B. Donovan ordered Attorney **Brad J. Peugeot** to disgorge fees of \$400 for failure to appear at an Order to Show Cause hearing and failure to file a written response. This lack of representation resulted in the dismissal of the bankruptcy case. The debtor had originally paid Peugeot \$1,400 and took it upon himself to file an amended petition and schedules, which were the basis for this hearing. Edwina Dowell, trustee, filed the Notice of Motion to Disgorge Fees.

Bankruptcy Judges Thomas B. Donovan and Meredith A. Jury referred the matter of **Manuel S. Rivera** which was heard by a panel of judges

consisting of David N. Naugle, John E. Ryan, and Kathleen T. Lax. On May 18, 2001, the panel revoked the right of **Rivera** to practice in the U.S. Bankruptcy Court in the Central District of California for: 1) failure to comply with a court order to pay over \$10,900 in excess fees in the Eastern Division, 2) failure to disgorge excess fees of \$2,410 in the Los Angeles Division, 3) failure to supervise employees adequately, 4) failure to perform agreed-upon legal services, and 5) misrepresentations to the Court regarding his fees.

On June 15, 2001, **Stephen Rodriguez** was ordered to disgorge attorney's fees of \$300. He failed to appear at the first meeting of creditors and failed to file a feasible plan. The debtor's previous case was dismissed just two days before this case filing for failure to prosecute.

CIVIL ENFORCEMENT ACTIONS

Don't Blame It On Your Attorney

After a trial on September 14, 2001, Judge Jury sustained the UST's objection to a debtor's discharge for concealment of \$13,500 in accounts receivable and a bank account. The debtor, Steven Hartert, also gave false testimony at the hearing of creditors. The Court heard testimony from the chapter 7 trustee, the debtor, and the debtor's counsel. The debtor sought to defend his actions by the defense of reliance of counsel. His counsel denied that he ever knew about the accounts receivable and never, contrary to the debtor's defense, advised the debtor to omit the accounts receivable information, if no one else knew about them. The Court made findings that the debtor's blaming of his counsel was not credible.

And Don't Use Someone Else's Social Security Number

A debtor signed his bankruptcy petition as being true and correct under penalty of perjury, even though the debtor knowingly and fraudulently listed the social security number of another person and failed to disclose the number actually assigned to him. In addition, at the 341(a) meeting, the debtor testified that he had two social security numbers.

Judge Greenwald denied the debtor a discharge under Bankruptcy Code § 727(a)(4).

SUBSTANTIAL ABUSE FILINGS

Riverside

→ Jason & Tamra Briggs had their bankruptcy case dismissed after indicating in their schedules that they had \$433 of monthly disposable income and only \$17,000 of unsecured debt.

→ Debtors Joel & Janeth Gonzalez indicated in their bankruptcy schedules a monthly contribution of \$190 to their 401(k) plan and only \$9,877 in unsecured debts, which included a nondischargeable student loan. Based on these factors, and a positive monthly disposable income, this case was dismissed.

→ Jimmy & Terry Hernandez filed a chapter 7 case showing monthly disposable income of \$147, a contribution to a 401(k) plan of \$178, and anticipated tax refunds of \$3,600. The debtors opposed a motion to dismiss by adding a previously undisclosed mortgage payment as well as other expenses. The court declined to allow the amendment and dismissed the case with a statement that if the debtor were to re-file, all expenses had better be included in the original schedules.

→ After examination at the 341(a) hearing, debtor Luther Rains admitted his income was inaccurately disclosed and his daughter paid one of the car debts indicated in his schedules. With these adjustments, the debtor had \$900 in monthly disposable income and only \$20,000 in debts. The debtor did not take advantage of an opportunity to amend his schedules and the motion to dismiss was successful.

→ An insurance salesman, Jack Schoenberg, with gross income of \$11,175.33 per month and a new \$60,000 Lexus, filed a chapter 7 bankruptcy case. The motion to dismiss was based on monthly disposable income of \$1,500. The debtor elected to convert to a chapter 13 bankruptcy.

→ Although Stanley & Sue Troublefield indicated disposable monthly income of a negative \$84 on their schedules, they disclosed at their 341(a) hearing that a monthly payroll deduction of \$1,313, a loan from their retirement, would end in five months. In addition, they had not disclosed a previous bankruptcy filing. A motion to dismiss was filed and the debtors chose to convert to a chapter 13 bankruptcy.

Santa Ana

→ The Santa Ana Office of the U.S. Trustee just completed a pilot Section 707(b) Project over the last few months. The project used IRS Guidelines for expenses as a measure of appropriate household expenses. The project gave debtors' counsel, judges, and trustees an idea of how the cases would be affected by the proposed means testing legislation in Congress. The results included the dismissal of eight cases and the conversion of five cases to chapter 13 bankruptcies.

San Fernando Valley

→ Judge Lax converted a chapter 7 case to a chapter 13 bankruptcy after finding substantial abuse. The debtor is a young attorney who earns \$135,000 per year.

→ Judge Greenwald converted a chapter 7 bankruptcy to a chapter 13 after discovering the debtors were moving \$1,655 per month to retirement accounts. If the debtors were to instead use this money for a chapter 13 bankruptcy, they could pay their unsecured creditors 100% within three years.

→ In an interesting twist to a debtor's failure to appear at a 341(a) meeting, Judge Mund not only converted the chapter 13 case to a chapter 7 bankruptcy but discovered the ostensibly female debtor was really a man. The son appeared in Court, posing as his mother, in an attempt to save his home which was in his mother's name. No one was fooled by the debtor's dress.

→ Judge Greenwald dismissed a chapter 11 bankruptcy case with a 180-day bar to refile. In a previous involuntary petition, the debtor had filed an answer stating he was not in debt and he was

paying his creditors on time. In the most recent case, the debtor filed amended schedules three times before he disclosed any income and expenses the day before the dismissal hearing.

Worthy Websites



for

Fraud Watchers

ElderAngels

www.elderangels.com

Has dual projects: 1) victim assistance, a forum in which to send in complaints, and 2) education, which provides information to the public on taking action on fraud against elders.

National Consumer Law Center

www.consumerlaw.org

A comprehensive resource for attorneys with low-income clients. Has available for purchase what one legal aid attorney calls the "Bibles" for consumer fraud advocates. One publication is Surviving Debt, "everything non-lawyers should know about their rights as consumer borrowers."



UST Community Outreach and Education Programs

Mortgage Bankers Association Panel

In July 2001, Ron Maroko, Trial Attorney with the OUST, spoke on a panel with United States Bankruptcy Judge Samuel L. Bufford, chapter 13 trustee Amrane Cohen, and attorney Donna LaPorte before the Southern California Mortgage Bankers Association. The topic was bankruptcy issues, including fraud.

FBI Training

Sandra R. Klein, Special Assistant U.S. Attorney, and Terri Hawkins-Andersen, Assistant U.S. Trustee, taught at Quantico, the FBI training facility in Virginia, on June 28, 2001. They spoke to FBI Special Agents who are also Certified Public Accountants. The title of their program was "Lying, Cheating, & Stealing - A Guide to Bankruptcy Fraud Scams & How They Work."

Inland Empire Bankruptcy Forum

Gary Dyer, Assistant U.S. Trustee, joined several trustees in a panel discussion on June 19, 2001 for the Inland Empire Bankruptcy Forum Trustees' Night. The discussion included current events in bankruptcy, trustee comments, and an open question & answer forum.

Further Bankruptcy Conferences

Maureen Tighe spoke in April at the National Association of Consumer Bankruptcy Attorneys Conference in Philadelphia and the American Bankruptcy Institute Annual Meeting in Washington D.C. about the role of the U.S. Trustee and attorney discipline. She also spoke on a panel for the Los Angeles Bankruptcy Forum in May about the proposed new bankruptcy legislation.

Resource Guide

Addressing Fraud and Abuse in Bankruptcy

The Resource Guide, a publication listing federal, state, and local governmental agencies as well as private organizations that provide assistance to debtors and creditors facing fraud and abuse issues in bankruptcies will soon be published. All those on the mailing list for "The Watchdog" will receive a copy. For others, contact Christine Cartwright at christine.cartwright2@usdoj.gov or (213) 894-7248 for a copy.

PETITION PREPARER NEWS

Los Angeles

WE THE PEOPLE

We the People prepares the bankruptcy documents, operating through various franchises around the country, handling "thousands of transactions." Recently, on the U.S. Trustee's motion, the United States Bankruptcy Court for the Central District of California found, in the case of Isaac Nuru, that We the People of Marina del Rey engaged in the unauthorized practice of law. The Court ordered We the People to disgorge all fees received from Mr. Nuru.

In a second matter, the U.S. Trustee sought fines against We the People of Santa Maria for collecting a Court filing fee from debtors Domingo and Georgeana Gutierrez. Debtors testified in their declaration (and in Court) that they paid the filing fee in cash to We the People. In their opposition, We the People argued that it received a money order from Debtors and therefore did not violate § 110(g). The Court issued findings of fact determining that We the People accepted cash for the filing fee and then purchased the money order that was ultimately used as the filing fee in the case. As a result, We the People was fined \$500.

MONEY ORDER KITING

Darlene Williams gave petition preparer Michael Jeffrey Levine a \$175 postal money order to cover her bankruptcy filing fees. The money order was made payable to the U.S. Bankruptcy Court. Levine used Williams' money order to pay the filing fee of another debtor. Williams was ultimately able to get her petition filed by another preparer, but not before paying a second filing fee. On the U.S. Trustee's motion, the Court ordered all fees disgorged, imposed a fine, made a finding that Levine's conduct was fraudulent, unfair, and deceptive, and certified that fact to the District Court consistent with § 110(i). The District Court awarded \$2,000 damages to Williams as a result.

UNAUTHORIZED PRACTICE OF LAW

As a result of U.S. Trustee motions adjudicated to date in 2001, the following individuals have been found to have engaged in the unauthorized practice of law and have been fined:

Bert Barbero, Irvin Madison, Albert Knowles, Rudy Sandoval (We the People of Marina del Rey),

Carolyn K. Hemming, Patricia Hoyte, and Emogene Williams. Randy Gruen, Esq. was found to have aided a non-attorney (Robert Mohit of United States Paralegal Service) in the unauthorized practice of law.

⇒ Stephen Inverno failed to file an answer to a complaint in an adversary proceeding. On September 6, 2001, Judge Samuel L. Bufford entered an order against Inverno and his company, Legal Services Network, permanently enjoining them nationwide from serving as bankruptcy petition preparers.

Riverside

⇒ Judge Mitchel R. Goldberg enjoined **Brad Atkins** and his company, Legal Filing Service, from using the word "legal" or any similar word in his advertisements. The Court also ordered Atkins to disgorge \$296 and pay a fine of \$500 for violating several subsections of 11 U.S.C. § 110.

⇒ **James Cole of Intercept Paralegal Services** had two actions against them, both resulting in permanent injunctions from acting as petition preparer. In the first case, Cole filed false statements about his compensation and provided the debtor false documents to sign regarding income and expenses as well as the petition preparer's compensation. In the second case, Cole again filed false statements about his compensation. Cole was ordered to disgorge \$50 and \$275, respectively.

⇒ **Laurie Coyne** failed to obey Judge Mitchel R. Goldberg's order for disgorgement and payment of a fine for her failure to disclose her identity and the assistance she provided the debtor. On April 16, 2001, the Court granted an injunction and allowed her to pay the disgorgement portion of the prior orders over a period of six months. The Court stayed the previous fine because of her allegations of an inability to pay contempt sanctions.

⇒ **Low Cost Legal Services**, a.k.a. **Low Cost**, was enjoined from advertising using the word "legal" or any similar phrase. The owner had used the word legal in a yellow page advertisement.

⇒ Judge Mitchel R. Goldberg enjoined **Theresa Marquez** from using the word "legal" or any similar word in her advertisements. She had indicated the business name of "Legal Services" in yellow page advertisements.

⇒ The Court ordered the permanent injunction of **Marquette McClue** from acting as a petition preparer. McClue failed to obey a Court order to disgorge \$50 and failed to appear at a continued hearing as ordered.

⇒ On June 5, 2001, the Court permanently enjoined **Jay Siddiqui** and **Financial Solutions International, Inc.** from acting in the capacity of bankruptcy petition preparer for failure to obey the Court's order to disgorge \$100 in fees. The Court also imposed a fine of \$1,500 which was waived if the disgorgement was paid by September 7, 2001.

⇒ **Shari L. Taylor** was permanently enjoined from acting as a petition preparer because she failed to obey a court order to pay a \$100 fine. Taylor had failed to disclose the amount of money she was paid to assist a debtor in the preparation of bankruptcy documents.

Santa Ana

⇒ On September 4, 2001, Judge Riddle sanctioned Luis Art Sabroso II \$7,000 and enjoined him from practicing as a bankruptcy petition preparer in the Central District of California. Sabroso used his Orange County address on the bankruptcy petitions of his clients in order to obtain venue in Orange County. Sabroso did not appear at the hearing.

TRUSTEE HIGHLIGHT

Profile of Weneta Kosmala by Wendy Carole Sadovick

Weneta Kosmala's parents left Poland, giving up everything to move to the United States. Her father, an accomplished musician as well as a Professor of music, moved the family many times,

as teaching positions changed. Weneta estimates that she and her two brothers have lived in about a third of all the mainland United States. She majored in Psychology at the University of Akron, Ohio, and entered Indiana University Law School at the age of 18, possibly the youngest law student ever at the school. Weneta, a renowned violinist, played in many concerts throughout the United States and Europe.

After completing law school, Weneta clerked for a judge in both criminal and civil courts in Baton Rouge, Louisiana, near her family. While still clerking, Weneta took on full-time studies in accounting in order to obtain her C.P.A. She also continued to play violin for the Baton Rouge Symphony Orchestra and Baton Rouge Opera. After her clerkship, she worked with the accounting firm of Peat, Marwick in the Tax Division, specializing in international and corporate matters.

Taking a break from work after Peat, Marwick, Weneta found herself in Rome, Italy, as Concert Master (first violinist) for the Rome Festival Orchestra. While wandering around Europe in 1986, she met her future husband on a train which began a successful long-distance relationship.

A friend in the District Attorney's office talked to Weneta one day about a position as a trustee. Since Weneta was intrigued, her friend introduced her to Samara Abide, a chapter 7 trustee. For Weneta, this job was a seamless match, fully utilizing both her accounting and legal backgrounds.

In the midst of this major career move, Weneta married her fiancé who had just finished his masters in engineering in Stockholm. Although her new husband hailed from Sweden, the couple decided to put down their roots in the U.S. However, the newlyweds agreed that in fairness to each other, they would choose a community that was new to both of them. They selected Southern California's Orange County and in 1990, at the age of 26, the couple moved across the country to a place where neither she nor her husband knew a soul!

Weneta soon after joined the firm of Burdon & Marshack, which specialized in bankruptcy. In 1993, Weneta opened her own law practice. When the U.S. Trustee's office asked for applications to fill an expanding Trustee panel, Weneta applied. She has served as a chapter 7 trustee for the Santa Ana office of the U.S. Trustee ever since, and has kept most of her original staff to this day.

Prior to the birth of her child, Weneta continued to make appearances playing violin including such places as Venezuela, Poland, England, and at music camp in Interlaken, Michigan. She has a three-year old girl, Kasia, (currently fluent in Polish, Swedish and English), who started playing violin at the age of two. Weneta feels that playing violin regularly is her best emotional release. She sees herself ten years from now doing exactly the same thing, but perhaps with a partner, her daughter.

Region 16 is proud to have such a dedicated and accomplished Trustee as part of our panel!

"Dear Sherlock:"

**(A column for fraud-fighters
seeking advice)**

Dear Sherlock:

I noticed that trustees are now having all debtors show a picture identification at the 341(a) creditors' meeting. Is this really necessary? Does a debtor's counsel have any duty to check the identification of a client before we get to the meeting?

Sincerely,

I.D. Kard

Dear I.D. Kard:

Unfortunately, picture I.D. checks have become necessary because of the enormous increase in identity theft we are seeing. It is one of the most significant complaints received by our office's fraud section. Ideally, debtors would be prevented from even filing a bankruptcy using a fake name. Since the filing procedures allow this

to happen, we must strive to prevent such debtors from receiving a discharge. While debtor's counsel has no legal duty to check the identification of a client, it is a good idea to do so. It takes only a minute and can save you from significant embarrassment later. To avoid a worst case scenario in which your client has indeed used a false identity, you can save your client from further complicating their previous mistakes. If there is a good reason that a client has no photo identification, you can determine that well before the 341(a) meeting.



Signed,

Sherlock

Please e-mail your inquiries regarding fraud and abuse issues to Sherlock, c/o:
www.Maureen.Tighe3@usdoj.gov.